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Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

Repertory of Practice of United Nations Organs and the *Repertoire of the Practice of the Security Council*

Report of the Secretary-General

Summary

In conformity with General Assembly resolution 58/248 of 23 December 2003, the present report outlines the efforts undertaken by the Secretariat in 2004 to reduce the backlog in the publication of the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*. The Assembly is invited, in paragraphs 10 and 17, to take action in light of the conclusions drawn in sections II.E and III.D of this report.

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I. Introduction

1. The present report has been prepared pursuant to General Assembly resolution 58/248 of 23 December 2003. In paragraph 7 of that resolution, the Assembly, taking note of paragraphs 42 and 43 of the 2003 report of the Secretary-General (A/58/347), commended him for his continued efforts to reduce the backlog in the publication of the *Repertory of Practice of United Nations Organs* and endorsed his efforts to eliminate the backlog in the publication of the *Repertoire of the Practice of the Security Council*. In paragraph 8 of the same resolution, the Assembly encouraged the Secretary-General in his continuous efforts to eliminate the backlog in the publication of the *Repertory* and of the *Repertoire*, including by exploring options involving cooperation with academic institutions as a means to achieve that aim without prejudice to the continuation of their timely publication. In paragraphs 9 and 10, the Assembly commended the Secretary-General for his initiative to make *Repertory* studies available on the Internet and requested him to make every effort, within the level of the approved budget, towards making available electronically all versions of the *Repertory* as early as possible; and in paragraph 11, the Assembly also requested the Secretary-General to submit a report on both the *Repertory* and the *Repertoire* to the Assembly at its fifty-ninth session.

II. *Repertory of Practice of United Nations Organs*

A. Preparation of Supplements to the *Repertory of Practice of United Nations Organs*

2. In 2003, the Secretariat finalized and submitted for translation and publication four volumes, namely, volume III of Supplement No. 6 (1979-1984) and volumes IV, V and VI of Supplement No. 7 (1985-1988). The work also progressed on numerous studies for four volumes of Supplement No. 8 (1989-1994) and on various studies for some volumes of Supplement No. 9 (1995-1999).

3. The current status of the publication, which by 2007[1] should consist as a whole of 38 volumes, is as follows: 24 volumes were published,[2] and 5 volumes have been finalized and submitted for publication.[3] Consequently, the work to be completed comprises nine volumes,[4] five of which are in different stages of preparation.

4. Annex I sets out the responsibilities of individual Secretariat units for the preparation of *Repertory* studies on individual provisions of the Charter of the United Nations. Annex II sets out the responsibilities of individual Secretariat units for the consideration of the preparation of *Repertory* volumes. In accordance with

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[1] In April 2002, the Office of Internal Oversight Services of the United Nations Secretariat (OIOS), in its report on the in-depth evaluation of legal affairs, recommended the year 2007 as a target date for the elimination of the backlog (see E/AC.51/2002/5, sect. IV, recommendation 12).

[2] *Repertory* and Supplement Nos. 1-6 (1946-1984).

[3] Two remaining volumes of Supplement No. 6 (1979-1984) and three volumes of Supplement No. 7 (1985-1988).

[4] This excludes work remaining on Supplement No. 9, which currently is not part of the backlog, insofar as it covers the most recent period that can be reviewed. Under normal schedule, it would be produced during the period 2000-2004.

paragraph 8 of resolution 58/248, in which the General Assembly had encouraged the Secretary-General to explore options involving cooperation with academic institutions, a pilot project was initiated in early 2004 involving a group of externs to conduct research for studies on certain Articles of the Charter of the United Nations. Externs, working to assist research towards the completion of unfinished studies, were guided and supervised by a staff member. Because of the limited scope and duration of the exercise, it would be premature to make an assessment regarding its effectiveness at the present time.

B. Availability of *Repertory* studies on the Internet

5. Since the establishment in autumn 2003 of the United Nations web site for the *Repertory* (http://www.un.org/law/repertory/), studies from 29 volumes, including the 5 volumes currently in processing for publication, have been posted on the Internet. In addition, the web site provides access to studies on individual Articles of the Charter of the United Nations from volumes not yet complete, thus further reducing the backlog. Placement of studies on the Internet, in a full-text searchable format, provides users, such as Member States and the academic community, with greater access to this resource.

6. Currently, all studies available in English are on the Internet, with a number of them also available in French and Spanish. The Secretariat will continue to make available electronically all three language versions of finalized *Repertory* studies as early as possible.

C. Translation of *Repertory* volumes into French and Spanish

7. Volume I of Supplement No. 6 was published in French and Spanish in 2004. Volume IV of Supplement No. 6 was issued in Spanish in June of 2004 and will be issued in French in 2004. Volume V of Supplement No. 6 was issued in Spanish in February 2004 and will be issued in French in 2004.

D. Funding

8. The Secretary-General in his report entitled "Strengthening of the United Nations: an agenda for further change" (A/57/387 and Corr.1), in accordance with the goal of ensuring that the Organization devoted its attention to the priorities set by Member States and in view of limited resources, indicated in action 10 (d) (see para. 83) that the *Repertory* should no longer be produced by the United Nations. Accordingly, no provision was included for this purpose in the proposed programme budget for the biennium 2004-2005. No resources were provided for the elimination of the backlog in the publication as encouraged in General Assembly resolution 58/248. In paragraph 44 of resolution 58/270 of 23 December 2003, the Assembly requested the Secretary-General to report, in the context of his first performance report, on the possibility for absorptions or the mobilization of extrabudgetary resources for the *Repertory*. The Interdepartmental Committee on Charter Repertory held two meetings, inter alia, to review the status of publication in light of the current situation, and was of the view that *Repertory*-related activity would be

contingent upon mobilization of resources in light of any future decision by the Assembly.

9. In paragraph 111 of its 2004 report,[5] the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization recommended that the General Assembly review at the appropriate technical level the possibility of establishing, at its fifty-ninth session, a trust fund for the preparation, updating and publication of the *Repertory*, which should accept solely voluntary contributions by States and private institutions and individuals.

E. Conclusions

10. **With respect to the *Repertory*, in the light of the above, the General Assembly may wish:**

(a) **To note the current status of the publication, including the progress made towards making *Repertory* studies available on the Internet in three languages (English, French and Spanish);**

(b) **To consider the recommendation of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization concerning the possibility of establishing a trust fund for the *Repertory*, as referred to in paragraph 111 of the Committee's 2004 report;**

(c) **To note that future efforts towards eliminating the backlog in the preparation of *Repertory* studies will be contingent upon mobilization of resources.**

III. *Repertoire of the Practice of the Security Council*

A. Preparation

11. Fifty years ago, the General Assembly gave the Secretary-General a mandate to produce a *Repertoire of the Practice of the Security Council*. From its inception, it has dealt with Security Council procedure, practice and constitutional questions in prior years. The Assembly continues to support the *Repertoire*. Within the limit of the resources available to it, the Secretariat is directing its efforts at producing the *Repertoire* in the most expeditious manner consistent with accuracy and balance, taking advantage of growing technological possibilities.

12. Drafting of the eleventh Supplement (covering the period 1989-1992) has been completed and the twelfth Supplement (1993-1995) is well under way, with a target date of 2005 for completion. Pursuant to section III, paragraph 15, of General Assembly resolution 55/222 of 23 December 2000, the *Repertoire*, beginning with the tenth Supplement (1985-1988), is to be made available in all official languages. In the case of the tenth Supplement, this has already been achieved.

13. In line with the "two-track" approach referred to in last year's report (A/58/347), work was initiated on a contemporary Millennium Supplement, covering the period 2000-2003 as drafting of the twelfth Supplement (1993-1995)

[5] *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 33* (A/59/33).

continues and work begins on covering the remaining gap period, 1996-1999. The aim is to produce a streamlined version of the *Repertoire* that at the same time incorporates all relevant aspects of previous Supplements, while responding to the general interest in the Security Council's contemporary practice, procedure and constitutional practice.

B. Availability of *Repertoire* studies on the Internet

14. A significant increase has been noted in the use of the published Supplements to the *Repertoire* already posted on the United Nations Internet web site (http://www.un.org/Depts/dpa/repertoire). As requested by Member States, the Secretariat is in the process of upgrading the web site to introduce multiple search capabilities. In addition, to allow access to current information without the lengthy delays involved in preparation for external publication, the Secretariat is now posting individual chapters of the *Repertoire*, once completed and approved, on the web site in an "advance version".

C. Constraints

15. The preparation and production of the *Repertoire* would not have been possible without the continued support of the General Assembly. Nonetheless, voluntary contributions to the Trust Fund for the Updating of the *Repertoire* remain an important element in respect of sustaining progress in a situation of financial constraint. Since the last report, Pakistan has joined the list of contributors.

16. The Security Council Affairs Division of the Secretariat has received numerous questions about the respective mandates and scope of the *Repertoire* and the *Repertory*. A lack of clarity regarding the two publications has also been reflected in considerations of the separate programmes that produce them. Such confusion has been aggravated by a consolidated reporting on the two.

D. Conclusions

17. **With respect to the *Repertoire*, in the light of the above, the General Assembly may wish to:**

(a) **Note the progress made towards the production of the *Repertoire* including a Millennium Supplement;**

(b) **Encourage contributions to the Trust Fund for the Updating of the *Repertoire*, and note with appreciation the recent contribution made by Pakistan to the Fund;**

(c) **Consider the possibility of a dedicated report of the Secretary-General on the *Repertoire* to be submitted to the General Assembly at its sixtieth and subsequent sessions.**

Annex I

Secretariat units bearing primary responsibility for the preparation of *Repertory* studies on individual provisions of the Charter of the United Nations

Office of Legal Affairs	*Repertory* volume I: Articles 1 (1), (3) and (4), 2 (1) to (3) and (5) to (7) and 7
	Volume II: Article 13 (1) (a)
	Volume VI: Articles 92 to 99, 102 to 105 and 108 to 111
Department of Political Affairs	Volume I: Articles 1 (2), 2 (4) and 3 to 6
	Volume II: Articles 10, 12, 13 (1) (a), 14 and 16
	Volume III: Articles 23 to 39 and 107
	Volume V: Articles 73 to 85, 87 and 88
Department of Peacekeeping Operations	Volume III: Articles 40 to 54 and 106
Department for Disarmament Affairs	Volume II: Article 11
Department for General Assembly and Conference Management	Volume II: Articles 9, 15, 18 and 20 to 22
	Volume IV: Articles 60, 61, 62 (3) and (4), 65 to 69 and 72
	Volume V: Articles 86, 89, 90 and 91
Department of Management	Volume II: Articles 17 and 19
	Volume VI: Articles 100 (1) and 101
Department of Management with Office of Legal Affairs	Volume VI: Article 100 (2)
Department of Economic and Social Affairs	Volume II: Article 8[a]
	Volume II: Article 13 (1) (b) and (2)
	Volume IV: Articles 55 (a) and (b), 57 to 59, 62 (1), 63, 64, 70 and 71

Office of the United Nations High Commissioner for Human Rights	Volume II: Article 13 (1) (b)
	Volume IV: Articles 55 (c), 56 and 62 (2)
Office for Outer Space Affairs	Volume II: Article 13 (1) (a)

[a] The Department of Management (Office of Human Resources Management) is responsible for the preparation of Article 8 for the period up to and including 1996. For the period from 1997 onward, that responsibility falls to the Department of Economic and Social Affairs.

Annex II

Secretariat units responsible for the coordination of the preparation of *Repertory* volumes

Volume	*Department*
I. (Articles 1 to 8)	Office of Legal Affairs
II. (Articles 9 to 22)	Department for General Assembly and Conference Management
III. (Articles 23 to 54, 106 and 107)	Department of Political Affairs
IV. (Articles 55 to 72)	Department of Economic and Social Affairs
V. (Articles 73 to 91)	Department of Political Affairs
VI. (Articles 92 to 105 and 108 to 111)	Office of Legal Affairs
Index	Department of Public Information (Dag Hammarskjöld Library)

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Item 103 of the provisional agenda*
Promotion and protection of the rights of children

Status of the Convention on the Rights of the Child

Report of the Secretary-General

Summary

The General Assembly, by its resolution 44/25 of 20 November 1989, adopted the Convention on the Rights of the Child. The Convention was opened for signature in New York on 26 January 1990 and entered into force on 2 September 1990, the thirtieth day after the deposit with the Secretary-General of the twentieth instrument of ratification or accession. As at 22 June 2004, the Convention had been ratified or acceded to by 192 States.

By its resolution 54/263 of 25 May 2000, the Assembly adopted two optional protocols to the Convention. The Optional Protocols entered into force on 12 February and 18 January 2004, respectively. As at 22 June 2004, the Optional Protocol to the Convention on the involvement of children in armed conflict had been ratified by 73 States and signed by 115 States and the Optional Protocol to the Convention on the sale of children, child prostitution and child pornography had been ratified by 73 States and signed by 108 States.

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I. Introduction

1. In its resolution 58/157 of 22 December 2003, the General Assembly requested the Secretary-General to submit to it at its fifty-ninth session a report on the status of the Convention on the Rights of the Child and the Optional Protocols thereto. The present report is submitted in accordance with that request.

II. Status of the Convention on the Rights of the Child

2. As at 22 June 2004, the Convention on the Rights of the Child had been ratified or acceded to by 192 States. In addition, two States had signed the Convention.[1]

3. As at 22 June 2004, the Optional Protocol to the Convention on the involvement of children in armed conflict had been ratified by 73 States and signed by 115 States and the Optional Protocol to the Convention on the sale of children, child prostitution and child pornography had been ratified by 73 States and signed by 108 States.[2]

III. Implementation of the Convention on the Rights of the Child

4. At its sixtieth session, the Commission on Human Rights adopted resolution 2004/48 of 20 April 2004, entitled "Rights of the child", in which it addressed the general topics of implementation of the Convention and other instruments; protection and promotion of the rights of the child; non-discrimination; protection and promotion of the rights of children in particularly difficult situations; the prevention and eradication of the sale of children, child prostitution and child pornography; and recovery and social reintegration.

5. With regard to the implementation of the Convention, the Commission urged States that had not yet done so to consider signing and ratifying or acceding to the Convention and its Optional Protocols and urged States parties to take all appropriate measures for the implementation of the rights recognized in the Convention. The Commission decided to request the Secretary-General to ensure the provision of appropriate staff and facilities from the United Nations regular budget for the Committee on the Rights of the Child and to take note of the Committee's ongoing efforts to reform its working methods, including the possibility of working in two parallel chambers (see para. 9 below).

6. During the reporting period, the Committee on the Rights of the Child held its thirty-fourth, thirty-fifth and thirty-sixth sessions, from 15 September to 3 October 2003, 12 to 30 January 2004 and 17 May to 4 June 2004, respectively,[3] at the United Nations Office at Geneva.

7. In conformity with rule 75 of its provisional rules of procedure, the Committee on the Rights of the Child has decided periodically to devote one day of general discussion to a specific article of the Convention or to a theme related to the rights of the child in order to enhance understanding of the contents and implications of the Convention.

8. At its thirty-fourth session, the Committee devoted its day of general discussion to the theme, "The rights of indigenous children". Following the general discussion, the Committee adopted a set of recommendations (see CRC/C/133, para. 624).

9. Also at its thirty-fourth session, the Committee adopted a recommendation (including consideration of its programme budget implications), requesting the General Assembly to approve, at its fifty-eighth session, its decision to work in two chambers as of 2005 (CRC/C/133, pp. 3-4 and annex III).

10. The Committee continued its practice of sending a letter to all States parties whose initial reports were due in 1995, requesting them to submit that report within one year. In the same letter, the Committee informed those States parties that, should they not report within one year, the Committee would consider the situation of child rights in the State in the absence of the initial report, as foreseen in the Committee's overview of reporting procedures (CRC/C/33, paras. 29-32) and in the light of rule 67 of the Committee's provisional rules of procedure (CRC/C/4).

Notes

[1] For the list of States that have signed, ratified or acceded to the Convention, as well as the dates of their signature, ratification or accession, see www.ohchr.org.

[2] For the list of States that have signed, ratified or acceded to the Optional Protocols to the Convention, as well as the dates of their signature, ratification or accession, see www.ohchr.org.

[3] For the reports of the Committee on these sessions, see CRC/C/133, CRC/C/137 and CRC/C/140.

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Item 106 of the provisional agenda*
Right of peoples to self-determination

Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

Note by the Secretary-General

As the term of the current Special Rapporteur of the Commission on Human Rights on the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination expires at the end of July 2004, the Secretary-General hereby transmits a brief report prepared by the Office of the United Nations High Commissioner for Human Rights.

* A/59/150.

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Report on the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

Summary

In its resolution 58/162 of 22 December 2003, the General Assembly requested the Special Rapporteur of the Commission on Human Rights on the question of the use of mercenaries to consult States and intergovernmental and non-governmental organizations on the implementation of the resolution and to report his findings, with specific recommendations, to the Assembly at its fifty-ninth session. The Special Rapporteur submitted his final report in April 2004 to the Commission on Human Rights at its sixtieth session (E/CN.4/2004/15), after having held this mandate for 16 years. The present report has therefore been prepared by the Office of the United Nations High Commissioner for Human Rights. It draws on the final report of the Special Rapporteur to the Commission at its sixtieth session and updates information where relevant.

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I. Introduction

1. In its resolution 58/162 of 22 December 2003, the General Assembly requested the Special Rapporteur of the Commission on Human Rights on the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, to consult with States and intergovernmental and non-governmental organizations on the implementation of the resolution and to report his findings, with specific recommendations, to the Assembly at its fifty-ninth session.

2. The present report is submitted in accordance with that request. In view of the expiry of the mandate of the Special Rapporteur on 31 July 2004, the report has been prepared by the Office of the United Nations High Commissioner for Human Rights. It draws upon the final report (E/CN.4/2004/15) of the Special Rapporteur, Mr. Enrique Bernales Ballesteros, who held the mandate for 16 years, updating information where relevant.

3. In its resolution 58/162 the General Assembly took note with appreciation of the proposal for an enhanced legal definition of mercenaries contained in the report of the Special Rapporteur and requested the Secretary-General to circulate it to Member States and to seek their views in order to include them in the report of the Special Rapporteur to the Assembly at its fifty-ninth session.

4. The General Assembly called upon States to investigate the possibility of mercenary involvement whenever and wherever criminal acts of a terrorist nature occurred and to bring to trial those found responsible or to consider their extradition, if so requested, in accordance with domestic law and applicable bilateral or international treaties.

5. The General Assembly requested the Office of the United Nations High Commissioner for Human Rights, to publicize, as a matter of priority, the adverse effects of the activities of mercenaries on the right of peoples to self-determination and, when requested and where necessary, to render advisory services to States that were affected by those activities.

6. At its sixtieth session, the Commission on Human Rights adopted resolution 2004/5 of 8 April 2004,[1] in which it recognized that armed conflicts, terrorism, arms trafficking and covert operations by third Powers, inter alia, encouraged the demand for mercenaries on the global market. In the same resolution, the Commission reaffirmed that the use of mercenaries and their recruitment, financing and training were causes for grave concern to all States and violated the purposes and principles enshrined in the Charter of the United Nations; and invited States to investigate the possibility of mercenary involvement whenever and wherever criminal acts of a terrorist nature occurred.

7. Also in its resolution 2004/5, the Commission on Human Rights requested all States to exercise the utmost vigilance against any kind of recruitment, training, hiring or financing of mercenaries by private companies offering international military consultancy and security services, as well as to impose a specific ban on such companies' interventions in armed conflicts or actions to destabilize constitutional regimes.

II. Activities of the Special Rapporteur

A. Implementation of the programme of activities

8. The Special Rapporteur visited Geneva from 16 to 19 March 2004 to attend the sixtieth session of the Commission on Human Rights. During his visit, he held consultations with representatives of States and met with members of non-governmental organizations. He also held working meetings with the Special Procedures Branch of the Office of the United Nations High Commissioner for Human Rights.

9. Regarding the pending request of the Special Rapporteur to visit Côte d'Ivoire, by letter received on 16 February 2004, the Minister of Human Rights of Côte d'Ivoire indicated that the request for a visit to the country could not be entertained until such time as the environment proved more propitious.

10. In response to the request of the Special Rapporteur to the Secretary of State for Foreign and Commonwealth Affairs of the United Kingdom of Great Britain and Northern Ireland, the Permanent Mission of the United Kingdom transmitted to the Special Rapporteur on 29 April 2004 a copy of the Green Paper prepared in February 2002 entitled "Private military companies: options for regulation".

B. Correspondence

11. Further to the request of the General Assembly for the Secretary-General to circulate the enhanced definition of mercenaries contained in the final report of the Special Rapporteur, the Office of the United Nations High Commissioner for Human Rights issued a note verbale on 25 March 2004 to Member States on behalf of the Secretary-General, requesting a response by 31 May. The Office has received the responses summarized below .

12. In a letter dated 1 June 2004, the Ministry of Foreign Affairs of Croatia provided the following information:

(a) In September 1999, Croatia had ratified the International Convention against the Recruitment, Use, Financing and Training of Mercenaries;[2]

(b) In order to fulfil its obligations under article 1 of the Convention, the Ministry of Justice proposed to amend the Criminal Law;

(c) The draft amendment to the Criminal Law defines a mercenary as a person recruited in the country or abroad with a view to joining an armed conflict or a joint act of violence directed at overthrowing a Government, subverting a constitutional order or threatening the territorial sovereignty of a State, who is not a citizen of the countries involved in the conflict nor an official member of their armed forces, and whose participation is motivated exclusively by personal gain which significantly exceeds that which is paid to persons participating in armed units of parties involved in the conflict;

(d) The draft amendment further specifies that the recruitment, exploitation, payment and training of mercenaries are criminal acts for which prison sentences of from one to eight years are foreseen. Prison sentences of from six months to five

years are foreseen for persons who directly participate in an armed conflict or joint act of violence as mercenaries for their personal material gain.

13. In a letter dated 10 June 2004, the Permanent Mission of Mauritius to the United Nations Office at Geneva provided the following information:

(a) Mauritius does not have any legislation incorporating the Convention or General Assembly resolution 58/162;

(b) However, section 3 (2) of the Prevention of Terrorism Act describes terrorism as including acts that seriously intimidate a population, unduly compel a Government to perform or abstain from performing any act, and seriously destabilize and destroy the fundamental political and constitutional structure of a State;

(c) Also, certain sections of the Criminal Code of Mauritius deal with offences against the State, including, inter alia, acts similar in nature to those that are committed by mercenaries, although the term "mercenary" is not used. Paragraphs 50-76 of the Criminal Code indicate the penalties applied for offences against the State, including such offences as "stirring up war against the State", "plotting with a foreign Power", "stirring up civil war" and "raising an armed force".

14. In a letter dated 16 June 2004, the Permanent Mission of Cuba to the United Nations Office at Geneva provided the following information:

(a) Cuba considers that the definition of "mercenary" as contained in article 1 of the Convention does not encompass its various manifestations and establishes excessive cumulative criteria for a person to qualify as a mercenary. It therefore endorses the proposal for a new enhanced definition put forward by the Special Rapporteur, which it considers a good basis for initiating the process of strengthening the Convention;

(b) It is alleged that the authorities of the United States of America, instead of taking action to prevent, impede or punish terrorist and mercenary acts against Cuba, tolerate in its territory the existence, training and activities of known terrorist organizations and mercenaries;

(c) At the Tenth Ibero-American Summit held in November 2000 in Panama, an attempted terrorist action allegedly took place against the Head of State of Cuba. The Cuban persons responsible for it were subsequently detained and judged in Panama, and sentenced to seven and eight years in prison, respectively. According to the Cuban authorities, these sentences were not proportionate to the gravity of the acts committed. Also, five young Cubans who had been disseminating information against the action of terrorists and mercenaries were allegedly arbitrarily detained and tortured by United States authorities;

(d) Cuba concurs with the Special Rapporteur's analysis that mercenary activity has developed over the last years, with more sophisticated forms emerging alongside traditional forms of activity. Of particular concern is the new phenomenon of private security companies which currently operate in more than 100 countries, some of which are closely linked to paramilitary groups involved in armed conflict and to transnational crimes such as terrorism and drug trafficking. As pointed out by a number of international analysts, there is no effective monitoring of such companies, either by Governments or by international organizations. They represent

a real challenge to the protection of human rights, and violations committed by their employees mostly go unpunished because of their uncertain legal status vis-à-vis the legislation that is applicable to them;

(e) Cuba expressed its hope that the new Special Rapporteur would undertake a mission to the United States, further to an initial request from that country for a visit.

III. Current status of the International Convention against the Recruitment, Use, Financing and Training of Mercenaries

15. The International Convention against the Recruitment, Use, Financing and Training of Mercenaries, adopted by the General Assembly by its resolution 44/34 of 4 December 1989, entered into force on 20 October 2001 when the twenty-second instrument of ratification or accession had been deposited with the Secretary-General. There are now 25 States parties to the Convention, Guinea having deposited its instrument of accession on 18 July 2003.

16. As noted above, 25 States have completed the formal process of expressing their willingness to be bound by the Convention. Those States are: Azerbaijan, Barbados, Belarus, Belgium, Cameroon, Costa Rica, Croatia, Cyprus, Georgia, Guinea, Italy, Libyan Arab Jamahiriya, Maldives, Mali, Mauritania, Qatar, Saudi Arabia, Senegal, Seychelles, Suriname, Togo, Turkmenistan, Ukraine, Uruguay and Uzbekistan. Nine other States have signed the International Convention, but have not yet ratified it. They are: Angola, Congo, Democratic Republic of the Congo, Germany, Morocco, Nigeria, Poland, Romania and Serbia and Montenegro.

Notes

[1] See E/2004/23 (Part I), chap. II, sect. A. The complete report of the Commission will be issued in final form as *Official Records of the Economic and Social Council, 2004, Supplement No. 3* (E/2004/23).

[2] General Assembly resolution 44/34, annex.